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Examiner Gregory E. Webb
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REMARKS

The non-final Office Action mailed on December 26, 2006, which is directed to claims and amendments filed on February 3, 2006, has been reviewed and the Examiner's comments have been carefully considered.

Subsequent to the amendments filed on February 3, 2006, a Final Office Action was issued on April 13, 2006. Amendments made in response to the Final Office Action were faxed on July 14, 2006, but were not entered. Applicants' requested a Pre-appeal Brief Conference which resulted in the non-final Office Action dated December 26, 2006. Therefore, the claim amendments hereby submitted, are based on the pending claims entered in the Response dated February 3, 2006.

On April 13, 2006 an Affidavit under 37 C.F.R. §1.131 was also submitted to swear behind US Patent No. 5,962,390 to Flynn et al., but it was not entered. Applicants are hereby re-submitting the Affidavit under 37 C.F.R. §1.131 to swear behind the Flynn et al. (5,962,390) reference and to remove it from consideration. The Affidavit and supporting documents show that the applicants had conceived of and diligently reduced to practice the method recited in the independent claims prior to the effective 102(e) date.

On December 7, 2007 a Supplementary Information Disclosure Statement under 37 USC §1.97 (c)(2) was filed with the USPTO. Applicants have not received notice that these references have been considered by the Examiner and therefore, the Supplementary IDS and paper references of foreign references are being re-submitted herewith and delivered via U.S. Mail.

In the Office Action dated December 26, 2007, claims 1-27 stand rejected under 35 USC §102(b) as being anticipated by the newly cited reference, Flynn et al. US Patent No. 5,827,812. Claims 1-27 also stand rejected under 35 USC 103(a) as being unpatentable under Flynn et al. (US 5,827,812). Amendments in response to these rejections are addressed below.

Claims 1-27 remain pending in this case. New Claims 28-35 are added. Support for new independent claims 28 and 32 which recite the use of wash liquor that includes a water co-solvent and also a wash liquor that is substantially free of co-solvent is found in paragraph 0172 of the written description (see published application). No new matter has been added.

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Background

Previous to Applicants' invention, bulk carriers or "working fluids" used in the dry-cleaning methods involving a laundering apparatus used chemicals specifically chosen to substantially chemically clean the fabric. In a few cases, these bulk carriers were used in conjunction with a wash adjuvant which were used to further clean the clothes, or were provided to function as surfactants, fabric softeners, perfumes, etc.

Applicants were the first to conceive of a method for cleaning a load of fabrics in a washing machine which could be achieved using an substantially inert working fluid (IWF) that is not damaging to the fibers. Inert action relies significantly on mechanical cleaning and thermal action and less on chemical cleaning. Applicants have found, surprisingly, that fabrics could be well cleaned by a method in which a working fluid, or the bulk fluid is a substantially inert working fluid provided it is used in conjunction with an adjuvant. Initial fluids selected and analyzed for use as the working fluid were chosen on the basis that they would do little or no cleaning, and adjuvants were selected for their chemical properties. These experiments led to the surprising result that cleaning could be done with little or no chemical action resulting from the working fluid or bulk fluid. This led to the choice of other fluids that were relatively inert, and which would not be considered as a solvent or working fluid by those of ordinary skill in the industry, while also leading to fluids that had favorable properties and cost advantages while still obtaining the benefit of this cleaning method. Thus, Applicants' method discloses the use the traditionally known cleaning chemicals in much smaller quantities as an adjuvant rather than in the bulk fluid. This was the beginning of a complete paradigm shift for the dry-cleaning industry. In addition to the fact that the traditionally known cleaning chemicals can be detrimental to fabrics or clothes, Applicants invention avoids many detrimental environmental effects of the traditionally known cleaning chemicals used in the working fluid or bulk fluid.

Applicants' method claims recite a class of inert working fluids, among other elements of the method, which are known or readily discernable by one of ordinary skill in the art. That is, one of ordinary skill in the art would easily be able to determine, based on the described invention, whether a particular compound would constitute an inert working fluid and that the traditionally known chemicals used in cleaning, in bulk fluids and in adjuvants, would not qualify as such. Thus, while the traditional solvents, or working fluids, continue to be used in the

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dry-cleaning industry to effectively clean fabrics, Applicants have discovered that the working fluid need not contain these traditional solvents or working fluids as the primary cleaning ingredients.

Since the time of filing Applicants' pending patent application, which claims a priority date of April 29, 1996, other companies (some of which are suppliers to Assignee) have since disclosed species compositions of Applicants' class of compounds for the inert working fluid (IWF). Species that have since been disclosed include, for example, cyclic silicone solvents, linear silicone solvents, and combinations thereof, and silicone solvents in combination with hydrocarbon solvents and fluorinated solvents. These species are discussed further below.

I. Rejections of Claims 1-27 under 35 U.S.C. §102(b) as being anticipated by Flynn et al. (US 5,962,390)

Applicants are hereby re-submitting an Affidavit under 37 C.F.R. §1.131. Inventors Tremitchell Wright and Mark Kovich swear behind the reference of Flynn et al. U.S. Patent No. 5,962,390 to remove it from consideration. The Affidavit and supporting documents show that the Applicants had conceived of and diligently reduced to practice the method recited in the independent claims prior to the effective 102(c) date (filing date) of Flynn et al. (Ser. No. 08/649,361) filed on May 17, 1996. The supporting documents also show that Applicants identified working fluids that inert and effective, and have identified several non-exclusive candidates. One such document shows Fluoroinert and describes certain desirable chemical qualities, including that it has no deteritive qualities and is non-reactive. In short, the documents evidence a conception and reduction to practice, thus removing the reference from consideration.

II. Rejections of Claims 1-27 under 35 U.S.C. §102(b) as being anticipated by Flynn et al. (US 5,827,812)

Claims 1-27 stand rejected under 35 USC §102(b) as being anticipated by Flynn et al (US 5,827,812). The USPTO states that because the Flynn reference teaches azeotropes, the Flynn compositions would require at least two solvents in which the first solvent is considered the working fluid and the second solvent would be the adjuvant.

Applicants believe amended claims 1-27, as well as new claims 32-35, are patentably

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distinct over Flynn et al. because Flynn requires an organic co-solvent.

With regard to new claims 28-31, Flynn et al. does not disclose a co-solvent that is water and relies on the azeotropes produced by the organic solvents, for example, those listed in the several tables of the Flynn et al. reference.

Applicants respectfully request withdrawal of the rejections of claims 1-27 under 35 USC 103(a). Accordingly, Applicants respectfully request allowance of claims 1-27 and new claims 28-35.

III. Rejections of Claims 1-27 under 35 U.S.C. §103(a) as being obvious over Flynn et al. (US 5,827,812) in view Henderson (US 2,940,287) and further in view of Williams (US 3,234,660)

The USPTO states, “Detecting fluid levels, sensing moisture, measuring conductivity, humidity are all well-known in the dry cleaning industry and would be inherent to the dry cleaning process” or at least obvious in view of Henderson. In addition, the USPTO maintains that it is well known in the dry cleaning industry to use filters and would be obvious in view of Henderson.

Applicants respectfully submit that Flynn et al. does not disclose the elements recited in claims 1-27 for the same reasons stated above.

Applicants respectfully request withdrawal of the rejections of claims 1-27 under 35 USC 103(a). Accordingly, Applicants respectfully request the allowance of claims 1-27 and new claims 28-35.

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CONCLUSION

In summary, Applicants believes that this Amendment is fully responsive to the Office Action mailed on December 26, 2006, and that Applicants' claims include features that patentably define over the cited references. It is respectfully requested that for the foregoing reasons claims 1-27 and new claims 28-35 of this application be found in condition for allowance. If claims 1-35 are not found in condition for allowance, then based on the amendments to this application and the foregoing discussion, it is respectfully requested that the finality of the office be withdrawn. If the finality of the rejection is not withdrawn, Applicants respectfully request that this amendment of this response be entered as it removes an issue for appeal. If the Examiner believes there are any further matters, which need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0959, referencing our Docket No. 094342.0028.

Respectfully submitted,
ROETZEL & ADDRESS

April 26, 2007
Date

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